
HOUSE BILL No. 1726

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-9-35.

Synopsis: Monroe County food and beverage tax. Permits Monroe County to impose a county food and beverage tax of 1% of the gross retail income received by a food and beverage merchant. Provides for the distribution of county food and beverage tax revenue.

Effective: Upon passage.

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January 19, 2005, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1726

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-9-35 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 **Chapter 35. Monroe County Food and Beverage Tax**

5 **Sec. 1. This chapter applies to Monroe County.**

6 **Sec. 2. The definitions in IC 6-9-12-1 apply throughout this**
7 **chapter.**

8 **Sec. 3. (a) The fiscal body of the county may adopt an ordinance**
9 **to impose an excise tax, known as the county food and beverage**
10 **tax, on those transactions described in section 4 of this chapter.**

11 **(b) If the fiscal body adopts an ordinance under subsection (a),**
12 **it shall immediately send a certified copy of the ordinance to the**
13 **commissioner of the department of state revenue.**

14 **(c) If the fiscal body adopts an ordinance under subsection (a),**
15 **the county food and beverage tax applies to transactions that occur**
16 **after the last day of the month that succeeds the month in which**
17 **the ordinance is adopted.**

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1 **Sec. 4. (a) Except as provided in subsection (c), a tax imposed**
 2 **under section 3 of this chapter applies to any transaction in which**
 3 **food or beverage is furnished, prepared, or served:**

- 4 (1) for consumption at a location, or on equipment, provided
 5 by a retail merchant;
 6 (2) in the county in which the tax is imposed; and
 7 (3) by a retail merchant for consideration.

8 **(b) Transactions described in subsection (a)(1) include**
 9 **transactions in which food or beverage is:**

- 10 (1) served by a retail merchant off the merchant's premises;
 11 (2) food sold in a heated state or heated by a retail merchant;
 12 (3) two (2) or more food ingredients mixed or combined by a
 13 retail merchant for sale as a single item (other than food that
 14 is only cut, repackaged, or pasteurized by the seller, and eggs,
 15 fish, meat, poultry, and foods containing these raw animal
 16 foods requiring cooking by the consumer as recommended by
 17 the federal Food and Drug Administration in chapter 3,
 18 subpart 3-401.11 of its Food Code so as to prevent food borne
 19 illnesses); or
 20 (4) food sold with eating utensils provided by a retail
 21 merchant, including plates, knives, forks, spoons, glasses,
 22 cups, napkins, or straws (for purposes of this subdivision, a
 23 plate does not include a container or packaging used to
 24 transport the food).

25 **(c) The county food and beverage tax does not apply to the**
 26 **furnishing, preparing, or serving of any food or beverage in a**
 27 **transaction that is exempt, or to the extent exempt, from the state**
 28 **gross retail tax imposed by IC 6-2.5.**

29 **Sec. 5. The county food and beverage tax imposed on a food or**
 30 **beverage transaction described in section 4 of this chapter equals**
 31 **one percent (1%) of the gross retail income received by the**
 32 **merchant from the transaction. For purposes of this chapter, the**
 33 **gross retail income received by the retail merchant from such a**
 34 **transaction does not include the amount of tax imposed on the**
 35 **transaction under IC 6-2.5.**

36 **Sec. 6. If an ordinance is not adopted under section 7 of this**
 37 **chapter, the tax that may be imposed under this chapter shall be**
 38 **imposed, paid, and collected in the same manner that the state**
 39 **gross retail tax is imposed, paid, and collected under IC 6-2.5.**
 40 **However, the return to be filed for the payment of the tax under**
 41 **this chapter may be made separately or may be combined with the**
 42 **return filed for the payment of the state gross retail tax, as**

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prescribed by the department of state revenue.

Sec. 7. (a) The county fiscal body may adopt an ordinance to require that the tax be reported on forms approved by the county treasurer and that the tax shall be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected. If such an ordinance is not adopted, the tax shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected pursuant to IC 6-2.5.

(b) If an ordinance is adopted under this section, all of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration apply to the imposition and administration of the tax imposed under section 3 of this chapter, except to the extent those provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer. Specifically and not in limitation of this subsection, the terms "person" and "gross income" shall have the same meaning in this section as set forth in IC 6-2.5, except that "person" shall not include state supported educational institutions. If the tax is paid to the department of state revenue, the returns to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of state revenue may by rule determine.

Sec. 8. If an ordinance is not adopted under section 9 of this chapter, the amounts received from the county food and beverage tax imposed under this chapter shall be paid monthly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

Sec. 9. (a) If an ordinance is adopted under section 3 of this chapter, the county treasurer shall establish a food and beverage tax receipts fund.

(b) The county treasurer shall deposit in the fund county food and beverage tax revenue that the county treasurer receives.

(c) Any money earned from the investment of money in the fund becomes part of the fund.

(d) Money in the fund at the end of the county fiscal year does not revert to the county general fund.

Sec. 10. (a) If an ordinance is adopted under section 3 of this chapter, the fiscal officer of the city of Bloomington shall establish

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1 a food and beverage tax receipts fund.

2 (b) The fiscal officer shall deposit in the fund county food and
3 beverage tax revenue that the fiscal officer receives.

4 (c) Any money earned from the investment of money in the fund
5 becomes part of the fund.

6 (d) Money in the fund at the end of the city fiscal year does not
7 revert to the city general fund.

8 Sec. 11. (a) Each month, the auditor of Monroe County shall
9 distribute the county food and beverage tax revenue received by
10 the county treasurer between the city of Bloomington and Monroe
11 County according to the location where the county food and
12 beverage tax was collected. If the county food and beverage tax is
13 collected in the city of Bloomington, the city of Bloomington must
14 receive the revenue. If the county food and beverage tax is collected
15 in the part of Monroe County that is outside the city of
16 Bloomington, Monroe County must receive the revenue.

17 (b) Distribution of county food and beverage tax revenue to the
18 city of Bloomington must be on warrants issued by the auditor of
19 Monroe County.

20 Sec. 12. Monroe County's share of county food and beverage tax
21 revenue deposited in the county food and beverage tax receipts
22 fund may only be used to finance, construct, operate, and maintain
23 one (1) or more of the following:

- 24 (1) A juvenile detention center.
- 25 (2) Parks and recreation facilities.
- 26 (3) Tourism or economic development projects.

27 Sec. 13. Money deposited in the city food and beverage tax
28 receipts fund may only be used to finance, construct, operate, and
29 maintain one (1) or more of the following:

- 30 (1) A convention center, conference center, or auditorium
31 facility.
- 32 (2) Parks and recreation facilities.
- 33 (3) Tourism or economic development projects.
- 34 (4) Parking facilities.

35 SECTION 2. [EFFECTIVE UPON PASSAGE] A large percentage
36 of the land in the city of Bloomington and in Monroe County is not
37 taxable because it is owned by the state or the federal government,
38 which puts the city and the county at a disadvantage in their ability
39 to fund projects. These special circumstances require legislation
40 particular to the city and county.

41 SECTION 3. An emergency is declared for this act.

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